

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In Re:)	
)	
Lewis E. Wilkerson, Jr.,)	
)	
Debtor)	
)	
ROBERT E. DIXON,)	Case Number: 20-34576-KLP
Individually and Derivatively on behalf of)	
D.E.R. LLC)	Ch. 11
)	
Plaintiff)	
v.)	
)	Adversary Proceeding
LEWIS E. WILKERSON, JR.)	
)	No. 21-03008 - KLP
Defendant.)	
_____)	

DISCLOSURE OF EXPERT TESTIMONY

Lewis E. Wilkerson, Jr. (hereinafter “Defendant”), by counsel, pursuant to Rule 26(a)(2)(C) of the Federal Rules of Civil Procedure and Rule 7026 of the Federal Rules of Bankruptcy Procedure, files his Disclosure of Expert Testimony:

The following expert disclosure is made without prejudice to the Defendant’s right to utilize subsequently discovered facts. The Defendant reserves the right to supplement the disclosures insofar as supplementation is allowed or required under the applicable federal or local rules.

ROBERT A. CANFIELD, VSB No. 16901
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COUNSEL FOR DEFENDANT

No incidental or implied admissions of fact by the Defendant are made by the disclosures below.

1. Defendant designates Benjamin H. Johnson, CPA whose address is 198 Milnwood Rd, Farmville, VA 23901 and whose phone number is 434-392-8311.

The subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705 is that Benjamin H. Johnson is a CPA with specialized knowledge gained from working with trucking, hauling, and timber companies of the type owned and operated by Defendant that are the subject of the Adversary Complaint. Mr. Johnson follows recognized, up to date accounting practices. Mr. Johnson's testimony is the product of reliable accounting principles and methods and Mr. Johnson has reliably applied the accounting principles and methods to the facts of the case when reaching his opinions. Mr. Johnson is particularly knowledgeable regarding businesses owned and operated by Mr. Wilkerson, including D.E.R. LLC and WST LLC.

A summary of the facts and opinions to which Mr. Johnson is expected to testify are that Mr. Johnson has prepared taxes and handled other financial matters for the Defendant, and entities owned partially or wholly by the Debtor, including D.E.R. LLC and WST LLC. He will base his opinion on the facts contained in the Federal and State Tax returns, including the 2015 D.E.R. LLC Federal and State Income Tax Returns; the 2016 D.E.R. LLC Federal and State Income Tax Returns, the 2017 D.E.R. LLC Federal and State Income Tax Returns; the 2018 D.E.R. LLC Federal and State Income Tax Returns; D.E.R. LLC Financial Statements for the Period Ending December 31, 2012; D.E.R. LLC Financial Statements for the Period Ending December 31, 2013; D.E.R. LLC Financial Statements for the Period Ending December 31, 2014; D.E.R. LLC Financial Statements for the Period Ending December 31, 2015; D.E.R. LLC Financial Statements for the Period Ending December 31, 2016; D.E.R. LLC Financial Statements for the Period Ending December 31, 2017; D.E.R. LLC Financial

Statements for the Period Ending December 31, 2018. Mr. Johnson may also review additional financial documents prepared by Dawn Wilkerson in the ordinary course of business, including QuickBooks records and spreadsheets of timber hauling trips for which D.E.R. LLC was paid.

Mr. Johnson will testify that it is his expert opinion as the accountant for Mr. Wilkerson, D.E.R. LLC, and WST LLC that D.E.R. LLC and WST LLC were operated by Mr. Wilkerson in an arm's length manner, that Mr. Wilkerson compensated D.E.R. LLC for each timber hauling trip made, and that Mr. Wilkerson subsidized D.E.R. LLC through loans so it could continue operating. Mr. Johnson will testify that upon ceasing operation, D.E.R. LLC was insolvent and that it was severely indebted to Mr. Wilkerson for those loans. Mr. Johnson will testify that Mr. Wilkerson's personal finances suffered due to him making loans to D.E.R. LLC so it could continue operating. Mr. Johnson will opine that if Mr. Wilkerson had not made those loans to D.E.R. LLC for it to continue operating, Mr. Wilkerson's personal financial situation would be much improved and that the underlying bankruptcy filing may not have been necessary.

2. Defendant designates Lewis Wilkerson whose address is c/o Robert A. Canfield, Canfield Wells, LLP, 4124 E. Parham Road, Richmond, VA 23228 and whose phone number is (804) 673-6600.

The subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705 is that Lewis Wilkerson possesses specialized knowledge gained from working with, and owning businesses that engage in, trucking, hauling, and timber companies for thirty-three (33) years in Charlotte County, Virginia and surrounding areas. This knowledge includes pricing plans and strategies common in Charlotte County, Virginia and the surrounding area; rates charged by independent timber haulers Charlotte County, Virginia and the surrounding area; and equipment leasing cost and equipment purchasing cost.

Mr. Wilkerson will testify that it is his expert opinion that D.E.R. LLC was compensated for timber hauling at the going rate and same rate as independent truckers in Charlotte County, Virginia and the surrounding area. Mr. Wilkerson will give his opinion as to equipment leasing cost that should have been charged to D.E.R. LLC by WST LLC, but was not. Mr. Wilkerson will also give his opinion as an expert as to timber hauling pricing plans common in Charlotte County, Virginia and the surrounding area. His opinion is that there are two (2) ways to price timber hauling trips, and that the price per ton, per mile pricing plan used by WST LLC to compensate D.E.R. LLC is commonly used. Mr. Wilkerson will testify as an expert as to how the price per ton, per mile plan is devised based upon overhead such as fuel pricing.

LEWIS E. WILKERSON, JR.

By: /s/ Robert A. Canfield
Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 2021, a copy of the foregoing Disclosures was electronically transmitted and/or mailed by regular mail, postage prepaid to: W. R. Baldwin, III, Esq., Meyer Baldwin, Long & Moore, LLP, 5600 Grove Avenue, Richmond, VA 23226 and William F. Seymour, IV, Esq., FloranceGordonBrown, P.C., 1900 One James Street, 901 East Cary Street, Richmond, VA 23219, Co-Counsel for Plaintiffs.

/s/ Robert A. Canfield
Robert A. Canfield